

REMARKS

By this Reply to Office Action, claims 12, 51, 53, and 54 have been amended. Claims 4-8, 10-28, 42-49, 51, and 53-56 remain pending in this application. No new matter has been introduced by this Reply to Office Action.

Initially, Applicants thank Examiner Hylton for indicating that claim 56 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants also thank the Examiner for the courtesy of the personal interview of February 13, 2004, and the telephone interview of February 17, 2004. The amended claims and the remarks below are consistent with the issues discussed and agreements reached during the interview.

35 U.S.C. § 102 Rejection Based on Wright

Claims 4, 5, 7, 8, 42-44, 46-49, 51, 53, and 54 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,717,050 to Wright ("Wright"). Applicants respectfully traverse this rejection.

Independent claims 51, 53, and 54, as amended, recite a panel of unitary construction being configured to latch the second closure in an open position. As agreed during the personal interview and indicated on the Interview Summary dated February 13, 2004, Wright does not disclose or suggest this recitation. Accordingly, Applicants submit that the § 102(b) rejection of independent claims 51, 53, and 54 based on Wright should be withdrawn.

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35 U.S.C. § 103 Rejections Based on Wright

Claims 6, 12-22, 45, and 55 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wright in view of U.S. Patent No. 5,271,531 to Rohr et al. ("Rohr"). Applicants respectfully traverse this rejection.

For the reasons similar to those discussed above in connection with independent claims 51, 53, and 54, Wright also fails to disclose "a panel of unitary construction . . . being configured to latch the second flap in an open position," as recited in independent claim 12.

Additionally, Rohr fails to overcome the above-noted deficiencies of Wright and is not relied upon for such teaching. Instead, the Examiner relies on Rohr for its alleged teaching of "a dispensing opening with a plurality of resilient members configured to engage a straw." Office Action, page 3, paragraph 6.

Accordingly, Applicants submit that the § 103(a) rejection of independent claim 12 based on Wright and Rohr should be withdrawn.

35 U.S.C. § 103 Rejections Based on Sequeira

Claims 10-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,226,001 to Sequeira ("Sequeira") in view of U.S. Patent No. 4,741,450 to Braude ("Braude") or U.S. Patent No. 4,949,865 to Turner ("Turner"). Applicants thank the Examiner for withdrawing the rejection of independent claim 23, and respectfully request the Examiner to withdraw the rejection of independent claim 12, as well.

As indicated in the Interview Summary dated February 13, 2004, the Examiner has agreed to withdraw the rejection of independent claim 23 based on Sequeira in view

of Braude or Turner because these references do not disclose or suggest a panel, first flap, and second flap formed as a single piece of unitary construction.

With regards to claim 12 and for reasons similar for withdrawing the rejection of claim 23, Sequeira in view of Braude or Turner, alone and in combination, also fail to disclose or suggest a closure for use with a container, comprising, *inter alia*, "a panel of unitary construction comprising a first flap and a second flap," as recited in independent claim 12.

Accordingly, Applicants submit that the § 103(a) rejection of independent claims 12 and 23 based on Sequeira in view of Braude or Turner should be withdrawn.

Summary

Claims 4-8, 10, 11, 13-22, 24-28, 42-49, 55, and 56 depend from either claim 12, 23, 51, 53, or 54 and are therefore allowable for at least the same reasons that independent claims 12, 23, 51, 53, and 54 are allowable, as well as for their added features.

The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

The Examiner is invited to telephone the undersigned at (202) 408-4157 if the Examiner deems that a telephone conversation would further the prosecution of the application.

In view of the forgoing amendments and remarks, Applicants assert that each of claims 4-8, 10-28, 42-49, 51, and 53-56 are in condition for allowance and respectfully request a timely Notice of Allowance.

Please grant any extensions of time required to enter this response and charge
any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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